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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

GRACE E. LA,)	Case No.: 08 CV 0532WQH WMc
)	
Plaintiff,)	EVIDENTIARY OBJECTIONS TO
)	PLAINTIFF'S OPPOSITION TO
v.)	DEFENDANTS' MOTION TO DISMISS
)	
ANDRA LEONARD ALLEN;)	DATE: August 11, 2008
FOREVER DIAMONDS, a business entity of)	TIME: 11:00 A.M.
unknown origin, and DOES 1 through 50,)	DEPT: 4
inclusive,)	JUDGE: Honorable William Q. Hayes
)	
Defendants.)	

Defendant, Andra Allen dba Forever Diamonds ("Defendant", hereby objects to the evidence proffered by Plaintiff Grace La ("Plaintiff") in support of her opposition to Defendants' Motion to Dismiss.

I.

DEFENDANT OBJECTS TO CERTAIN STATEMENTS IN THE DECLARATION OF
GRACE LA

In a 12(b)(6) hearing, the Court cannot consider material beyond the scope of the pleadings. Since Plaintiff's declaration is used for the basis of asserting the definition of securities, the Court cannot consider the evidence presented by Plaintiff whatsoever. FRCP 12(b)(6); *Arpin v. Santa Clara Valley Transp. Agency*, 261 F.3d 912, 925 (2001). With regard to Plaintiff's particular statements, Defendant further objects as follows:

Paragraph 2, pg. 1, Ins. 23-28 – pg. 3, Ins. 1-4. Plaintiff's statements are inadmissible hearsay and designed to identify that Defendant was involved in the sale of a security. FRE 802. Plaintiff has no knowledge whether Defendant was in fact selling a security and later admits that she had no idea what a security was until the start of this litigation. FRE 701 and 602.

Paragraph 3, pg. 2, Ins. 5-10. Plaintiff's statements are inadmissible hearsay. FRE 802. Improper opinion testimony; Lacks foundation. FRE 701 and 602.

Paragraph 4, pg. 2, Ins. 11-15. Plaintiff's statements are inadmissible hearsay. FRE 802. Improper opinion testimony; Lacks foundation. FRE 701 and 602.

Paragraph 5, pg. 2, Ins. 16-21. Plaintiff's statements are inadmissible hearsay. FRE 802. Improper opinion testimony; Lacks foundation. FRE 701 and 602.

Paragraph 6, pg. 2, Ins. 22-26. Plaintiff's statements are inadmissible hearsay. FRE 802. Improper opinion testimony; Lacks foundation. FRE 701 and 602.

Paragraph 7, pg. 3, Ins. 1-3. Plaintiff's statements are inadmissible hearsay. FRE 802. Improper opinion testimony; Lacks foundation. FRE 701 and 602.

Paragraph 8, pg. 3, Ins. 4-7. Plaintiff's statements are inadmissible hearsay. FRE 802. Improper opinion testimony; Lacks foundation. FRE 701 and 602.

Paragraph 9, pg. 3, Ins. 8-13. Plaintiff's statements are inadmissible hearsay. FRE 802. Improper opinion testimony; Lacks foundation. FRE 701 and 602.

Paragraph 12, pg. 3, Ins. 24-26. Plaintiff's statements are inadmissible hearsay. FRE 802. Improper opinion testimony; Lacks foundation. FRE 701 and 602.

II.

DEFENDANT OBJECTS TO CERTAIN STATEMENTS IN THE DECLARATION OF CHARLES B. CHRISTENSEN

In a 12(b)(6) hearing, the Court cannot consider material beyond the scope of the pleadings. Since Plaintiff's declaration is used for the basis of asserting the definition of securities, the Court cannot consider the evidence presented by Plaintiff whatsoever. FRCP 12(b)(6); *Arpin v. Santa Clara Valley Transp. Agency*, 261 F.3d 912, 925 (2001). With regard to Plaintiff's particular statements, Defendant further objects as follows:

1 Paragraph 3, pg. 2, lns. 1-3. Mr. Christensen's statements are inadmissible hearsay. FRE 802.
2 Improper opinion testimony; Lacks foundation. FRE 701 and 602.

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4 Dated: August 4, 2008

Respectfully Submitted,

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6 s/Timothy P. Dillon, Esq.
7 E-mail: tdillon@dillongerardi.com
8 Attorney for Defendants,
9 Forever Diamonds
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